



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Brunswick Planning Commission Minutes March 24, 2008

Commission Members Present: Chair Edward Gladstone, Vice Chair Connie Koenig, Secretary Walt Stull - Council Liaison, Don Krigbaum, Wayne Dougherty, and Ellis Burruss, Alternate.

Staff Present: City Development Review Planner Jack Whitmore, City Attorney David Severn, and City Public Works Administrative Coordinator Jim Castle

Chair Koenig called the meeting to order at 7:00 PM.

Chair

Ms. Koenig introduced that Staff that was present.

Ms. Koenig stated that the meeting would be conducted in accordance with Article 66B of the Annotated Code of Maryland and the Brunswick Planning Commission Rules and Procedures.

Ms. Koenig requested all those in attendance who were going to speak to rise and be sworn in.

Ms. Koenig stated that the night's events were being televised and recorded.

Mr. Whitmore stated that Mr. Dougherty had been absent at the previous meeting but had had been given a digital recording.

Mr. Whitmore reviewed the Agenda Package and the distribution on the dais.

Minutes

The minutes of the January 28, 2008 meeting were reviewed and approved. (MOTION by Mr. Gladstone and seconded by Mr. Krigbaum; unanimously passed.)

New Business

Annual Report

Mr. Whitmore reviewed the 2007 Annual Report for the Planning & Zoning Office and indicated that it would be forwarded to the Department of State Planning in accordance with Article 66B of the Annotated Code of Maryland upon approval by the Planning Commission.

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Commission.

Decision:

Mr. Dougherty made a motion to approve the 2007 Annual Report

Mr. Stull seconded the motion.

VOTE: 5 Yea 0 Nay

Old Business

Zoning – Site Plans

Lot 259 Brunswick Industrial Co. Addition to Brunswick Residential Site Plan – Request for Residential Site Plan Approval for proposed new single family dwelling, located on the north side of East F Street, West of Second Avenue. Zoning Classification: OS; Water and Sewer Classification: W-1, S-1; BR-IP-03-02-SP

Staff Presentation and Recommendation:

Mr. Whitmore presented the revised Recommendation from the March 24, 2008 Staff Report and outlined the issues.

Staff recommends approval of the application in accordance with the Staff Report and the following specific conditions:

1. Planning Commission finds the application complies with Article 8, Section 8.2 of the Zoning Ordinance.
2. The applicant must comply with the conditions of Article 8, Section 8.2 of the Zoning Ordinance.
3. The Street Cross-section must be satisfactory to Public Works and the Planning Commission.
4. Improvement Plans and PWA Package Process are required to be submitted for Planning Commission Action and processing for applicable Mayor & Council approval.
5. If the Planning Commission determines that landscaping is required, it must be noted and graphically shown on the Site Plan.
6. If additional Street lighting is required, it must be shown on the Site Plan to Public Works satisfaction.
7. Address Staff comments.
8. Address agency comments.
9. Final review and approval by Staff.
10. PWA Package submission and approval.
11. Applicant bound by their testimony.

Applicant:

Ms. Leslie Powell the attorney for the applicant presented the applicants presentation. Ms. Powell explained specifics with regards to the changes that occurred on Lot 259 as a

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result of building on Lot 260. Lot 260 required the building of a Sediment Control Device, which was placed on Lot 259. Correspondence from the City specifically letters dated June 16, 2006, and February 1, 2008, ask that the Device be removed.

Ms. Powell also explained original objections that she had raised at the November 28, 2007 Planning Commission Meeting, stating that her comments were based on the perception of disproportionate improvements imposed on the Lot, and those improvements constituting a taking.

Mr. Severn asked Ms. Powell the following questions:

The Sediment Erosion Measures for Lot 260 were essentially always placed on Lot 259?

Ms. Powell indicated that it had.

What positions of the Planning Commission (requirements) are you challenging?

Ms. Powell indicated that these positions are not being challenged at this time and it is the applicant's belief that accommodations can be reached.

Is the Silt fencing on adjoining Lots standard procedures?

This question was not answered.

Why did the Silt fencing on Lot 259 not work?

The original Silt fencing did not hold and additional measures were needed.

Change of slope in the surveys is not correct (2002 survey indicating a 38% grade compared to 28% grade listed in subsequent surveys).

Ms. Powell indicated that the slope differences were only partially true due to misuse of the information.

Mr. Lavelle identified himself as the Surveyor of Record and explained the discrepancies of the surveys. Mr. Lavelle stated that the survey that had been conducted on Lot 260 in 2002 was not intended for Lot 259 and the Topography on that Lot was not correctly identified. Mr. Lavelle also stated that the whether the Sediment Control Device made the change was uncertain as the conditions on the recent surveys indicate the correct Topography.

The survey for Lot 260 was made specifically for the improvement plans associated with that Lot. The topography for the adjoining Lots had been requested but was not accurate for the purposes that it is being used, for these proceedings.

Ms. Koenig asked why the 2007 and 2008 surveys had no topographic information located on the building pad area.

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Mr. Lavelle indicated that staff had asked the applicant to identify the areas of steep slope.

Mr. Burruss asked staff to review the zoning ordinance about the Open Space 35% Slope requirement, where one could not build on entire lot is any of the Lot is over 35% slope or the just LOD.

Mr. Whitmore stated the ordinance verbatim and specially stating the area being disturbed is not to be over 35%.

Mr. Burruss noted that it appeared that the applicant would be in compliance based on the new survey information.

Ms. Koenig questioned the letters from Mr. Lavelle's associate (Mr. Reidd Hammond) dated January 23, 2008 and March 3, 2008, specifically the sections detailing the possibility of change to the Lot.

Mr. Lavelle stated that the whether the Sediment Control Device made the change was uncertain as the conditions on the recent surveys indicate the correct Topography.

Ms Koenig asked if the Mr. Lavelle could determine if the Lot had been altered?

Mr. Lavelle stated that he could not.

Mr. Severn asked Mr. Lavelle asked if the topography of the building enveloped has not changed?

Mr. Lavelle indicated that the building pad topography had not changed.

Mr. Burruss asked if there was any authoritative figure for the topography of Lot 259 prior to the 2007 survey.

Mr. Lavelle indicated that there was not.

Mr. Krigbaum asked if the purpose of the grading on Lot 259 (at the City's request) was to return the Lot to its original condition.

Mr. Castle surmised that it was to stabilize the slope area.

Mr. Dougherty asked if there were slopes over 35% on the property and where.

Mr. Lavelle stated that there were none over 35%.

Ms. Koenig asked what the topography in 2002 stated with regards to the slope.

Mr. Lavelle stated that from the elevations shown on plans presented that the slopes were in the 20% range based on site-specific topography.

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Ms. Koenig asked what the Limit of Disturbance in the Building pad area is?

Mr. Lavelle indicated that the Limit of Disturbance for the entire site was 3900 SF and 2100 SF (or 29%) for the building site.

Mr. Joe Harrington of 46 East F Street stated that he had seen the disturbance and that two-thirds of the lot had been changed. He continued that the Lot had been changed during the construction of Lot 260 and that to date there has been a lot of erosion and the conditions of Lot 259 currently indicate a large disturbance.

Mr. Sponseller questioned if Mr. Harrington had attempted to purchase his Lot.

Mr. Harrington denied and then reneged once he was told by Mr. Sponseller that he was under oath.

Mr. Mike Catron identified himself as a previous inspector for the City of Brunswick and for ARRO Engineering. He stated that he had noticed that the Lot had changed greatly. He also stated that it was his understanding that this was not buildable due to the steepness of the Lot.

After which time Ms. Koenig asked the five following questions to the commission:

1. Does the application for Lot 259 comply with Article 8 section 8.2? (specifically regarding slope, disturbance, and grading?)
2. What is the Slope of Lot 259?
3. Was a disturbance on Lot 259 made before the Site Plan Application was submitted in August 30, 2007?
4. What percentage of disturbance already exists on Lot 259?
5. Was an application or approval of a grading plan made for Lot 259?

Ms. Koenig posed the first question to the commission.

Mr. Burruss stated that it appeared the only information that was of relevance appeared to be Mr. Lavelle's latest survey.

Ms. Koenig noted evidence from the case files that applicant has stated the Lot as being 38%.

Mr. Lavelle indicated that this slope (38%) was not adequately depicted on the 2002 survey.

Mr. Burruss concluded that the data on the 2002 survey did appear to indicate a 22% slope instead of the 38% shown.

Mr. Koenig asked Mr. Lavelle if he had given a survey that was wrong in 2002 how were they to believe him tonight.

Mr. Lavelle stated that the information was correct.

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Ms. Koenig then presented the second question to discussion.

Mr. Burruss clarified if Ms. Koenig was asking where any disturbance had been made on the Lot.

Ms. Koenig agreed.

Mr. Burruss asked if that would include the retaining wall.

Ms. Koenig then asked if placing the retaining wall on Lot 259 would change the Limit of Disturbance.

Mr. Severn indicated that the ordinance states that as long as what is proposed does not change the limit of disturbance, and that is the building being proposed is on a slope in excess of 35%.

Mr. Stull asked if the house on Lot 259 would require a sediment control device.

Mr. Castle indicated that Frederick County is the administrative authority for Sediment Erosion Control.

Mr. Burruss indicated that it appeared that some kind of device would probably need to be used on the Lot, and that had the potential to change the limit of disturbance.

Mr. Sponseller indicated that there were no plans to disturb the Lot additionally.

Mr. Burruss asked who would determine whether a stabilizing device would be required and what would happen.

Mr. Severn indicated that the applicant is bound by the Site Plan and would not be able to change the Limits of Disturbance further without the Planning Commissions approval.

Ms. Powell indicated that the stabilization could occur off of the Lot.

Ms. Koenig suggested that the applicant provide data as to whether a retaining wall was necessary.

Ms. Powell stated that that would be erroneous on the part of the applicant.

Mr. Gladstone noted that it there would have been reason for making the area open space, and slope would have been one of those determination factors.

Mr. Stull asked why the retaining wall on Lot 259 depicted in the 2007 Site Plan is not on the 2008 Site Plan?

Mr. Sponseller indicated that was done to not put the Limit of Disturbance over 30% on this proposal.

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Ms. Koenig noted that with her experience of 20+ years of survey review that it had appeared that a large amount of the earth held by the retaining wall appeared to be fill and that the area appeared to be covered with new grass, indicating a disturbance in excess of the 30% maximum.

Mr. Sponseller indicated that new grass had been placed in the area.

Mr. Burruss noted that with the information provided it appeared that the Lot will be at 29% and any additional modifications will need to come to Planning Commission for approval.

Ms. Koenig asked if the Planning Commission could give Conditional approval?

Mr. Severn indicated that they could.

Mr. Burruss asked whether any grading had occurred to the pad site.

Mr. Sponseller stated he did not know.

Ms. Koenig asked if the applicant had put fill on the Lot.

Mr. Sponseller indicated that he had not.

Ms. Koenig asked for a motion regarding the request for approval.

Decision:

Mr. Dougherty made a motion to approve the request with the conditions outlined in the Staff Report and to expand condition #5 in the Staff Report to read:

Mr. Stull seconded the motion.

Mr. Krigbaum made a motion to amend Mr. Dougherty's motion to include: the Planning Commissions expressed concern and that the City Engineer will review the application to ensure stability.

Mr. Dougherty seconded the motion to amend the original Motion.

Vote of Amendment: 5 Yea 0 Nay

Vote of Motion: 5 Yea 0 Nay

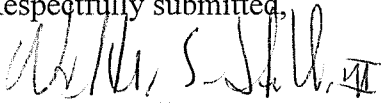
Mr. Whitmore reminded the Commission that the next scheduled meeting was April 28, 2008 at 7:00 PM.

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Adjournment

The meeting was adjourned at 9:30 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter S. Stull, III". The signature is written in a cursive, flowing style.

Walter S. Stull, III, Secretary
Brunswick Planning Commission